

HOUSE BILL 2895

By Winningham

AN ACT to amend Tennessee Code Annotated, Title 67,  
Chapter 6, Part 3; Title 67, Chapter 7, Part 1 and  
Title 67, Chapter 6, Part 2, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-7-101, is amended by deleting the section in its entirety and by substituting instead the following:

Section 67-7-101. As used in this part, unless the context otherwise requires:

(1) "Coal products" means coal ore and any other substance that might be severed from the earth by the process of producing salable coal, by whatever method of severance used; and

(2) "Gross value" means gross income from property as defined in Section 613(c) of the Internal Revenue Code and 26 CFR §§ 1.613-3 and 1.613-4 in effect on December 31, 1977.

SECTION 2. Tennessee Code Annotated, Section 67-7-104, is amended by deleting the section in its entirety and by substituting instead the following:

Section 67-7-104.

(a) The measure of the tax shall be four and one-half percent (4.5%) of the gross value of all coal products severed from the ground in this state.

(b) Gross value shall be reported as follows:

(1) For coal severed or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer;

(2) If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value; or

(3) If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value. In all instances, the gross value shall not be reduced by any taxes, royalties, sales commissions, or any other expense.

SECTION 3. Tennessee Code Annotated, Section 67-7-106(b)(2), is amended by inserting between the language "amount of the tax," and "and such other information" the language "the gross value of the coal,".

SECTION 4. Tennessee Code Annotated, Section 67-7-110, is amended by deleting the section in its entirety and by substituting instead the following:

Section 67-7-110.

(a)

(1) The Tennessee coal severance fund ("coal severance fund") is hereby established as a special account in the state general fund. The purpose of the coal severance fund is to disburse and account for monies collected as coal severance taxes in order to provide funding for public policies for the assistance of counties affected by coal mining, the reclamation of land and waters damaged by prior mining, and programs for energy conservation and solar energy generation.

(2) Monies in the coal severance fund shall be invested by the state treasurer, in accordance with the applicable general law, except as qualified by this part. The state treasurer shall hold the coal severance fund separate and apart from all other monies, funds and accounts.

(3) Any balance remaining unexpended in the coal severance fund at the end of a fiscal year shall be carried forward into the subsequent fiscal year.

(4) Investment earnings credited to the assets of the coal severance fund including, but not limited to, interest shall be carried forward into the subsequent fiscal year.

(b)

(1) Revenues collected under this part, less an amount of two and one-half percent (2.5%) of the tax and all penalties collected, which shall be retained by the department and credited to its current service revenue to cover the expenses of administration and collection, shall be first deposited into the general fund in an amount sufficient to offset any loss of sales tax revenue to the state arising from the provisions of section 5 of this act. The remainder of all revenue collected under this part shall be remitted by the commissioner to the state treasurer for deposit into the coal severance fund.

(2) From the coal severance fund, an amount equal to fifty percent (50%) of the revenue generated from coal severed in a county shall be remitted by the state treasurer to the county in which the coal products were severed for the following specific purposes:

(A) One half (1/2) shall be used for the educational system or systems of the county; and

(B) One half (1/2) shall be used for highway, other transportation infrastructure and programs and stream cleaning activities of the county.

(3) From the coal severance fund, an amount equal to fifty percent (50%) of the revenue remaining in the coal severance fund shall be remitted by the state treasurer to the Tennessee surface mine reclamation fund for use by the department of environment and conservation for the reclamation and revegetation of land disturbed by past coal mining as provided in § 59-8-212.

SECTION 5. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new, appropriately designated section:

Section 67-6-396.

(a) There is exempt from the tax imposed by § 67-6-202(a) all sales of the following specified property and equipment relating to renewable energy:

- (1) Qualified solar water heating equipment;
- (2) Qualified photovoltaic equipment and necessarily associated equipment including racks, mounts and inverters;
- (3) Qualified wind generator of one hundred kilowatts (100 kW) generating capacity or less and necessarily associated equipment including towers and mounts and inverters; and
- (4) A backup system used to store energy produced from qualified photovoltaic property or qualified wind generators of one hundred kilowatts (100 kW) generating capacity or less.

(b) There is exempt from the tax imposed by § 67-6-202(a) any services related to the installation of qualified solar water heating equipment, qualified solar photovoltaic equipment, qualified wind generators, and back up systems for wind and solar photovoltaic electric generation.

(c) As used in this section, unless the context otherwise requires:

- (1) "Qualified photovoltaic equipment" means property which uses solar energy to generate electricity, for which the interconnection and safety equipment is listed by underwriters laboratory (UL). The exemption shall be applied when evidence is provided to the seller of a contract with the Tennessee valley authority generation partners program, or such other state or federal renewable energy assistance or recognition programs as the commissioner may recognize;

(2) "Qualified solar water heating equipment" means any equipment using direct solar energy for the purpose of heating or pre-heating domestic or commercial water use other than for swimming pools; and

(3) "Qualified wind generator of one hundred kilowatts (100 kW) generating capacity or less" means equipment which uses wind energy to generate electricity, for which the interconnection and safety equipment is listed by underwriters laboratory (UL). The exemption shall be applied when evidence is provided to the seller of a contract with the Tennessee valley authority generation partners program, or such other state or federal renewable energy assistance or recognition programs as the commissioner may recognize.

SECTION 6. This act shall take effect July 1, 2008, the public welfare requiring it.